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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,529	10/24/2003	Robert Johnston	RIVER-001XX	2299
28452	7590	01/25/2006		
BOURQUE & ASSOCIATES, P.A. 835 HANOVER STREET SUITE 303 MANCHESTER, NH 03104			EXAMINER LARSON, JUSTIN MATTHEW	
			ART UNIT 3727	PAPER NUMBER

DATE MAILED: 01/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/693,529

Applicant(s)

JOHNSTON ET AL.

Examiner

Justin M. Larson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10-16 is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 June 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/15/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement (IDS) submitted on March 15th, 2004 is noted. The submission is in compliance with the provisions of 37 CFR 1.97 and 1.98. Accordingly, the examiner is considering the information disclosure statement.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the fifth support channel of claims 4 and 12 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the examiner does not accept the changes, the

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applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Crawford et al. (US 3,946,917). Crawford et al. discloses a carrier comprising a body of resilient material, said body including: a bottom surface and a top surface, the top surface including a plurality of raised protrusions defining a support surface (32), said plurality of protrusions also defining a first and at least second support channel (34,35, or 36) disposed substantially transverse to said support surface.

The initial statement of intended use and all other functional implications have been carefully considered but are deemed not to impose any patentably distinguishing structure over that disclosed by Crawford et al. which is capable of being used in the intended manner, i.e., being placed on a vehicle roof, a piece of equipment being engaged with the support surface and a first fastener being engaged with any of the

support channels. There is no structure in Crawford et al. that would prohibit such functional intended use (see MPEP 2111).

5. Claims 1-7 are rejected under 35 U.S.C. 102(e) as being anticipated by Szigeti (US 6,685,070).

Regarding claim 1, Szigeti discloses a carrier comprising a body of resilient material, said body including: a bottom surface and a top surface, the top surface including a plurality of raised protrusions defining a support surface, said plurality of protrusions also defining a first and at least second support channel (1 & 2, respectively, below) disposed substantially transverse to said support surface.

The initial statement of intended use and all other functional implications have been carefully considered but are deemed not to impose any patentably distinguishing structure over that disclosed by Szigeti which is capable of being used in the intended manner, i.e., being placed on a vehicle roof, a piece of equipment being engaged with the support surface and a first fastener being engaged with any of the first and at least second support channels. There is no structure in Szigeti that would prohibit such functional intended use (see MPEP 2111).



The initial statement of intended use and all other functional implications have been carefully considered but are deemed not to impose any patentably distinguishing structure over that disclosed by Szigeti which is capable of being used in the intended manner, i.e., a second fastener being engaged with any of the third and at least fourth support channels. There is no structure in Szigeti that would prohibit such functional intended use (see MPEP 2111).

Regarding claim 3, the third and fourth support channels of Szigeti are aligned with the first and second support channels.

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Regarding claim 4, the carrier of Szigeti has a fifth support channel disposed along the bottom surface, the channel being aligned with the third and fourth support channels.

The initial statement of intended use and all other functional implications have been carefully considered but are deemed not to impose any patentably distinguishing structure over that disclosed by Szigeti which is capable of being used in the intended manner, i.e., a second fastener being accepted within the fifth support channel. There is no structure in Szigeti that would prohibit such functional intended use (see MPEP 2111).

Regarding claim 5, the carrier of Szigeti has a first cavity (42B) disposed along on the bottom surface.

The initial statement of intended use and all other functional implications have been carefully considered but are deemed not to impose any patentably distinguishing structure over that disclosed by Szigeti which is capable of being used in the intended manner, i.e., the cavity engaging at least part of a roof rack. There is no structure in Szigeti that would prohibit such functional intended use (see MPEP 2111).

Regarding claim 6, the support surface of the present invention is only shown in the drawings as being flat. The support surface of Szigeti is also flat. Examiner takes the position that while neither of these support surfaces have an actual contour, they are each contoured to support a flat piece of equipment, the support surface of Szigeti therefore satisfying the limitations of the claim.

Regarding claim 7, the carrier of Szigeti has slots (42T) disposed substantially perpendicular to the support surface.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Szigeti in view of Gradek et al. (US 4,326,655). Szigeti discloses the claimed invention except for the slot further comprising a substantially semicircular cavity.

Gradek et al., however, also discloses a roof rack that is capable of carrying skis within a series of slots, and teaches that the slots have semicircular cavities within. It would have been obvious to one having ordinary skill in the art at the time the invention was made to include semicircular cavities in the slots of Szigeti, as taught by Gradek et al., in order to make it easier to insert and remove the skis from the slots at various angles.

Allowable Subject Matter

8. Claims 10-16 are allowed. While Szigeti is the most closely related piece of prior art, Szigeti does not teach or provide proper motivation for engaging fasteners with the rack device in a structural configuration such as that defined in claim 10.

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Conclusion


9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin M. Larson whose telephone number is (571) 272-8649. The examiner can normally be reached on Monday - Friday, 8am - 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Newhouse can be reached on (571) 272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JML
1/12/06


NATHAN J. NEWHOUSE
SUPERVISORY PATENT EXAMINER